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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Billed Party Preference for)
InterLATA 0+ Calls)

CC Docket No. 92-77

**COMMENTS OF INVISION TELECOM, INC. TO
SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

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July 17, 1996

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FEDERAL COMMUNICATIONS COMMISSION

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I. INTRODUCTION

InVision Telecom, Inc. ("InVision") respectfully submits its comments in response to the Second Further Notice of Proposed Rulemaking released June 6, 1996 in the above captioned docket (the "Notice") by the Federal Communications Commission (the "Commission").

InVision is a wholly-owned subsidiary of Communications Central Inc., a public corporation whose stock is traded on the Nasdaq National Market System. InVision provides inmate-only telephone service from confinement facilities throughout the United States and is the largest independent inmate service provider in the country.¹ InVision currently operates approximately 5300 inmate phones in over 500 confinement facilities located in 35

¹Excluding Local Exchange Companies and Interexchange Carriers.

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states. InVision provides inmate telephone service primarily from county or city jails.

II. SUMMARY OF ISSUES

In its Notice, the Commission invited comment on "whether the public interest would be better served by some alternative remedy [to Billed Party Preference ("BPP")] for prison inmate calling, including but not limited to requiring full price disclosure to the party to be billed for a collect call before connecting the call for inmate calls."²

InVision strongly supports the position that BPP is not viable because of the untenable cost of its implementation. Moreover, BPP would be particularly unsuitable in the confinement facility environment because it would defeat the control and security features necessary for inmate calls. Both of these conclusions have been well demonstrated in previous comment cycles in this docket.

InVision submits that its current rates are reasonable, and that the Commission can ensure reasonable rates by all inmate telephone service providers through its investigative and enforcement powers.

²Notice at 28.

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Should the Commission determine, however, that an appropriate alternative to BPP would be establishment of a benchmark rate at some level, such as 115 percent of an average of the three largest carriers' rates as contemplated in the Notice, InVision maintains that the Commission must simultaneously address fair compensation to inmate telephone service providers for all inmate telephone calls, including intrastate. Prescription of uniform nationwide rates, pursuant to the mandates of Section 276 of the Telecommunications Act of 1996 (the "Act"), is consistent with the economic reality that reasonable charges to the end user must be balanced with fair compensation to the service provider. Absent such intrastate consideration, the interstate benchmark rate must be higher.

Without this equitable balance, it is probable that effective competition in the inmate telephone service market will not survive, in contravention of the Act's goal of promoting competition. Competition in the inmate telephone industry has resulted in technological advances that have enabled providers to deploy vast numbers of inmate telephones. Thus communication between the inmates and their families and friends has been greatly facilitated while the security concerns of the confinement facility have been met and improved upon. In addition, a revenue stream was created by the payment of commissions to the confinement facility.

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This revenue stream, which was virtually nonexistent before competition, has enabled facilities to provide programs for inmates that might not otherwise be available.

With respect to rate disclosures, InVision maintains that rate disclosures should only be required if the provider's rates exceed a reasonable benchmark.

III. BACKGROUND

InVision currently provides over 125,000 interstate inmate calls per month and, in the majority of confinement facilities where InVision provides service, facility administrators select InVision's interstate rate plan that is approximately 30 percent above AT&T's Prison Collect with Controls Service rates. InVision does not believe that the public finds its rates to be egregious and in fact, InVision has had only three informal FCC rate complaints since it began providing inmate service in February 1994.

As stated in the Notice, there are "special circumstances relative to inmate-only telephones in correctional institutions."³ Indeed, inmate telephone service is highly specialized and differs dramatically from standard collect telephone calls provided for the

³Notice at 10.

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general public. The Commission has consistently recognized this difference by its continuous exclusion of inmate-only telephone service from the requirements imposed on telecommunications service providers under the Telephone Operator Consumer Services Improvement Act of 1990, and subsequent Commission rulings.

Standard collect calls consist of two functions: transmission and operator service, each of which is represented by a separate charge. Inmate calls incorporate both of those functions, plus a third element attributable to the higher cost of providing inmate calls. The higher cost results from: 1) the greater cost of providing service that meets the needs of the confinement facilities, the called parties and the inmates; and, 2) the higher incidence of fraud and bad debt borne by independent inmate telephone service providers.⁴

1) Cost to provide service. Because the integrity of the confinement facility and the safety of the public are paramount concerns in this unique environment, the inmate service provider must provide and support an intelligent telephone system that performs many extraordinary functions. These functions are provided at the discretion of the confinement facility

⁴By comparison, local exchange company bad debt from inmate calls has traditionally been blended into overall operator services costs, making it impossible to segregate the inmate-specific bad debt from the overall operator services bad debt.

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administration to preserve the security of the facility and to reduce fraud and harassment committed by inmates against the public.

Typically, an inmate telephone system must be capable of allowing only specific types of calls, blocking access to certain telephone numbers, alerting the called party through specialized branding that the call is from a confinement facility, providing three-way call detection to prevent inmates from calling blocked telephone numbers, limiting call length and availability of service as deemed appropriate by the administration, providing a PIN code system to enable facility administrators to identify inmates, and alerting facility personnel if a pre-defined situation occurs. The equipment must also be compatible with recording and monitoring equipment that may be used by the confinement facility. Attached as Exhibit A is a more detailed listing of specialized inmate telephone system capabilities.

2) Fraud and bad debt. The incidence of fraud and bad debt in the inmate market is significantly greater than for operator-assisted calls provided to the general public. An example of fraud in the inmate industry is the thousands of dollars' worth of charges to the inmate service provider for "chat line" services accessed by inmates. One method by which inmate telephone systems obtain positive acceptance of charges is by requiring the called

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party to press a number on the telephone keypad. An inmate will occasionally find a "chat line" telephone number, accessible by dialing an area code + telephone number, at which point a recorded message emulates the acceptance tone. Once an inmate accesses one of these numbers, the information is quickly circulated to other inmates. Tens of thousands of dollars' worth of fraudulent charges can accrue against the inmate service provider in the short time before the ruse is discovered and the number is blocked.

The greater bad debt expense to the independent inmate service provider results from calls provided in reliance on the called party's agreement to pay the charges, which are subsequently not paid. InVision's bad debt from inmate calls averages approximately 15 percent. By comparison, the bad debt of InVision's parent company, Communications Central Inc., the country's second largest independent public payphone provider, is approximately 6 percent of operator service calls placed from its payphones by the general public. The attached Exhibit B outlines InVision's cost structure on a per-line basis for the month of April 1996, and reflects that InVision's bad debt was 16 percent for that month.

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IV. DISCUSSION AND PROPOSALS

1. Billed Party Preference is Wholly Unacceptable in the Confinement Facility Environment.

InVision believes that the cost of implementing BPP, the loss of control and security BPP would inflict on the confinement facility, and the debilitating effect BPP would have on the inmate telephone service market would far outweigh any potential benefit. These beliefs are well supported in the record in this docket.

2. Establishment of Benchmark Rates Must Ensure that Inmate Telephone Service Providers are Fairly Compensated for All Calls.

InVision believes that imposition of an interstate benchmark rate must be paired with a regulatory scheme that allows inmate telephone service providers to be fairly compensated for all calls. Many states do not recognize the higher cost of providing inmate telephone service and unfairly impose the incumbent local exchange company's Standard Collect call rate as a cap for inmate calls. Historically, in an effort to balance the negative effect of unfair intrastate rate caps, inmate telephone service providers may have been forced to increase their interstate rates in order to stay in business.

Prescription of a uniform nationwide per-call fee would be consistent with the mandates of Section 276 of the

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Telecommunications Act of 1996. The Commission issued its Notice of Proposed Rulemaking in that proceeding⁵ simultaneously with the issuance of its Notice in the instant proceeding, acknowledging that these two fundamental concepts, *fair rates to the end user and fair compensation to the service provider*, must be considered in concert.

InVision believes that the Commission can ensure reasonable rates by all inmate telephone service providers through its investigative and enforcement powers as an alternative to BPP. Another alternative would be a reasonable benchmark rate, based upon one of the following three recommendations. Each of these recommended benchmark rates would balance the need for reasonable charges to the end user with fair compensation to the inmate telephone service provider.

- A. **A Benchmark Rate of 115% of the Three Largest Carriers' "Standard Collect" Interstate Rates Plus \$.90 for Every Interstate and Intrastate Call.**

InVision strongly advocates an interstate benchmark rate of 115 percent of an average of the three largest carriers' "Standard Collect" rates, in conjunction with a per-call fee for each intrastate and interstate call to compensate for the higher cost of providing inmate telephone service as discussed above.

⁵In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Notice of Proposed Rulemaking, CC Docket No. 96-128, FCC 96-254 (Rel. June 6, 1996).

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InVision believes that an appropriate per-call fee is \$.90. This fee should be added to both the interstate collect call rate and the intrastate collect call rate. This amount represents the difference between AT&T's operator charge for standard collect calls (\$2.10) and its operator service charge for inmate calls (\$3.00) at the time its Prison Collect with Controls Service was filed with the Commission.

B. A Benchmark Rate of 115% of "Inmate Collect" Rates for All Calls.

Another feasible approach would be for the Commission to adopt an interstate benchmark rate of 115 percent of an average of the three largest carriers' interstate "Inmate Collect" rates, in conjunction with prohibiting states from imposing ceilings for intrastate inmate calls, including local, that fall below the interstate benchmark rate of 115 percent of an average of the three largest carriers' interstate "Inmate Collect" rates. InVision, however, believes that this approach is less attractive than the per-call fee approach outlined in paragraph "A" above because the per-call fee approach leaves to the states the responsibility for setting the underlying rate to which the per-call fee is added.

C. An Interstate Benchmark Rate of 130% of the Three Largest Carriers' "Inmate Collect" Rates.

Without action at the state level, the interstate benchmark rate must be at a higher level to enable inmate telephone service providers to remain viable. In the absence of

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intrastate relief in conjunction with an interstate benchmark rate, InVision believes that the Commission must establish the interstate benchmark rate at 130 percent of an average of the three largest carriers' "Inmate Collect" rates in order to preserve the viability of the inmate telephone service industry.

3. Rate Disclosures.

In its Notice, the Commission also invited comment on "requiring full price disclosure to the party to be billed for a collect call before connecting the call for inmate calls."⁶ InVision believes that such a requirement would be costly and burdensome on inmate service providers, and if the Commission adopts a reasonable benchmark for inmate calling rates, such a requirement would be unnecessary.

InVision estimates that it would take approximately 30 seconds to provide a rate disclosure. Based on its long distance call volume alone, InVision estimates that its cost to purchase the additional network time from its underlying carriers to provide rate quotes for each long distance call would be approximately \$300,000 annually.

Although many inmate service providers may be required to upgrade their existing equipment to provide automated rate quotes,

⁶Notice at 28.

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the majority of InVision's existing equipment has that capability. However, the automated rate quote feature is seldom used because the rates residing in the equipment, input by the manufacturer, do not always match InVision's tariffed rates.

In addition, since InVision operates in 35 states, each of which generally imposes a rate ceiling for interLATA and a separate rate ceiling for intraLATA toll, and some of which impose more than one intraLATA rate ceiling within the same state, e.g., Tennessee, the task of manually inputting each rate and monitoring and maintaining each rate revision would be complex and labor intensive. InVision estimates that the labor cost to maintain the database would be approximately \$25,000 annually.

InVision submits that if the Commission adopts a regulatory scheme that includes a requirement for full rate disclosure for inmate calls, such disclosure should be provided upon request rather than for each call. Because a called party may receive repeated calls from the same inmate, rate quotes for every call would be repetitive and unnecessary.

Thus InVision proposes that the requirement for full rate disclosure be imposed only on those providers exceeding a reasonable benchmark rate and that the rate disclosure should only be provided upon request of the called party.

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V. CONCLUSION

InVision respectfully requests that the Commission take such action in a manner consistent with the comments and specific recommendations made herein. The adoption of InVision's proposal would serve the public interest by preserving and promoting the ability of inmate telephone service providers to meet the needs of confinement facilities, inmates and the parties they call at prices that are fair to consumers and that fairly compensate the service provider.

RESPECTFULLY SUBMITTED,

INVISION TELECOM, INC.

BY:


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EXHIBIT A

Special functions typically required of inmate telephone systems:

- ° Allowing specific types of calls
 - Automated collect call only
 - Automated collect person to person call option
 - Debit call option that allows charges for calls to be deducted from the inmate's commissary account maintained by the facility
- ° Specialized branding
 - Bi-lingual voice prompts and announcements
 - Custom announcements that may identify the call as being from a confinement facility and may include the name of the facility
- ° Automated options for the called party, activated by pressing a number on the telephone keypad as instructed by voice prompt
 - Rate quotes
 - Ability to block collect calls from the facility
- ° Blocking of certain calls
 - Specific telephone numbers of persons who do not wish to be called by an inmate, at the request of the facility administrator or the called party, including judges, witnesses and facility personnel
 - Telephone numbers that allow access to the public telephone network, including 800/888 numbers and carrier access numbers
 - Incoming calls
 - International calls
 - Service bureau calls (911, 411, 555-1212)
- ° Three-way call detection to prevent calls to blocked telephone numbers
- ° Free calls, e.g., to public defenders
- ° Limitations as deemed appropriate by the administration
 - Call duration limits
 - Time of day access limits
- ° A PIN code system that enables facility administrators to identify inmates
- ° An on-site host or central processor with failure safeguards

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- ° Monitoring system as defined by facility administration
 - ° Ability to alert facility personnel that a pre-defined situation is occurring
 - ° Compatibility with recording and monitoring equipment that may be used by the confinement facility

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EXHIBIT B

Apr-96

Per Inmate Line

Revenue	\$892	100%
Costs:		
Telephone Charges	\$218	24%
Billing & Collection; Validation	\$75	8%
Commissions to Facility Provider	\$216	24%
Bad Debt	\$143	16%
Expenses-salaries, maintenance, overhead	\$87	10%
Earnings prior to Interest, Taxes, & Depreciation	\$153	17%
Depreciation & Amortization	\$60	7%
Interest	\$69	8%
Profit before Taxes	\$24	3%